

## State Water Board Responses to Cumulative Impact Key Questions

Key ? #	FPR Citation	Key Question	State Water Board Response
61	898; 916.9(b)	To be responsive to the potential for cumulative effects, the spatial scale of applicability of the T/I rules must expand beyond a T/I watershed area to consider T/I rules in those "non-T/I" watersheds that flow into a "T/I" watershed. Should cumulative impacts analysis consider upstream areas of planning watersheds that are completely outside the anadromous zone?	The geographic scope of cumulative watershed effects (CWE) analysis is not the same issue as the geographic scope of the T/I rules. Upstream stressors usually do not stay behind barriers, but migrate downstream, so the geographic scope for any adequate CWE analysis must address potential impacts of a project on downstream natural resources. Section 898 already requires this for 303(d)-listed waters, and it should also be required for ESA-listed salmonids. If the impacts from the project area could reasonably affect degraded downstream natural resources, then additional protection/mitigation should be provided. One way to provide the additional protection/mitigation would be to expand the applicability of the T/I rules to planning watersheds upstream of the uppermost planning watershed with a barrier to anadromy. Another way would be to design protections/mitigations tailored for the specific watershed situation that would apply to all projects upstream of the resources-at-risk that could impact the degraded resources.
62	898; 916.9(b)	Is there adequate guidance for cumulative impact assessment and effective cumulative impacts mitigation in the T/I rules or the FPRs in general?	No. Every review has found that the FPRs and their implementation do not adequately address CWES: not in conducting CWE assessments, not in willingness to acknowledge their existence, and not in the additional protection/mitigation measures being implemented. This is often true even where the resources-at-risk are already known to be degraded. The inadequacy of the project-by-project approach to CWE analysis is widely recognized (see response in 65 below). CalFire maintains that the FPRs are sufficient to avoid contributing to CWES regardless of watershed condition or resiliency and that slowing the natural rate of recovery of degraded resources to a crawl is acceptable as long as recovery is not stopped or reversed. These two factors can be corrected immediately.
63	898; 916.9(b)	Do the T/I rules or the FPRs in general provide adequate guidance and effective mitigation for addressing cumulative sediment effects associated with roads?	No. See response in item 62 above.
64	898; 916.9(b)	Do the T/I rules or the FPRs in general provide adequate guidance and effective mitigation for addressing cumulative sediment effects as related to rate of harvest which is related to watershed resiliency to stressing storms?	No. See response in item 62 above. And there is another major deficiency: Under CEQA guidelines (14 CCR 15355), only the impacts of other projects must be considered in analyzing cumulative impacts; watershed condition resulting from residual effects of earlier nature events (e.g., fires, floods, landslides) need not be considered.
65	898; 916.9(b)	Should the T/I rules or the FPRs in general develop a disturbance index reflecting cumulative sediment effects and a watershed's resiliency to stressing storms?	Watershed-scale CWE analysis should be conducted independently of a specific timber operation, and address impacts of all land uses (not just timber management) in a watershed. In most watersheds, this lies beyond the scope of BOF regulatory authority and must be interagency and collaborative in nature. Elsewhere, the state has taken on the burden of such analysis because it exceeds the resources and technical capabilities of most timberland owners. The technical capabilities for conducting CWE analysis have expanded and become more user-friendly. Resources Agency and/or CalEPA could take the lead in conducting pilot projects to find the most effective and efficient way(s) for conducting CWE analysis. Watershed condition and resiliency are among the factors that should be considered. Indices or thresholds are sometimes misleading and problematic.

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66	916.9(b)	Should rules state that small contributions to pre-project cumulatively considerable adverse conditions be avoided, minimized or mitigated?	Under CEQA, a small contribution might be considered "insignificant", and even under the federal ESA it might be within the parameters for "incidental take". However, under 303(d), even small contributions must be thoroughly mitigated and, per 898, they would be considered "significant".
67	916.9(b)	Section 916.9(b) has a connection to regular requirements in Section 916.4, including notably Section 916.4(a)(2-6). Are these two sections duplicative, inconsistent, or unclear, or not providing adequate information for assessing impact?	The use of "cumulatively impact" in 916.4(a)(1) is confusing and different from its usual use elsewhere. There it refers to the combined potential impacts of two or more of the sensitive conditions set forth earlier in that section, not to the cumulative impacts of a timber operation together with impacts of other projects.
69	916.9(b)	Code Section - 916.9 (b)(936.9(b), 956.9(b)) Because a plan located within a T&I watershed can likely be assumed to have adverse cumulative watershed effects on anadromous salmonid species, why should the plan acknowledge or refute such conditions? Should this section be removed in its entirety? Since timber operations cannot offset all impacts that adversely affect salmonids, should this section be modified to reflect the ability of the timber operation to reduce adverse effects? (Ref: L9-6)	916.9(b) might be clarified to state that CWES will be assumed to exist in watersheds with ESA or 303(d) listings unless the plan preparer can convincingly demonstrate to the contrary. Where a 303(d) TMDL implementation plan is in effect, the plan preparer must comply with its restoration requirements, regardless of his/her conclusions regarding CWES. Under TMDLs, any given project or landowner in a mixed-ownership watershed is not expected to single-handedly bring about recovery. Rather they are each expected to actively contribute toward recovery. Perhaps the T/I rules could clarify this matter.
70	898; 916.9(b)	Should timber harvest proposed in non-T/I planning watersheds that drain to T/I watersheds explicitly assess the potential for cumulative impacts that could occur in downstream areas as a result of proposed timber operations? Do the existing T/I rules or other FPR sections adequately require this assessment?	Yes. See response in item 61 above.
71	898; 916.9(b)	Is there adequate guidance for watershed-wide analysis in the T/I rules or the FPRs in general?	No. See response in item 62 above
72	898	Where waters are 303(d)-listed, the FPRs currently require that a RPF assess the degree to which a proposed timber operation could impact any portion of a water body that is located within or downstream of the proposed timber operation, and propose appropriate mitigation measures (14 CCR 898). Should this same provision apply where fish are ESA-listed?	Yes. See response in item 61 above.